

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

523 BURLINGAME AVE., LLC,

Plaintiff,

v.

TAPANG,

Defendant.

Case No. [16-cv-04295-BLF](#)

**ORDER DISMISSING APPEAL
 PURSUANT TO MOTION OF
 APPELLANT [FED. R. BANKR. P. 8023]**

[Re: ECF 6]

On July 29, 2016, 523 Burlingame Ave., LLC (“Appellant”) filed a notice of appeal in this Court. ECF 1. The record on appeal in the matter was entered in the docket of this Court on August 11, 2016. ECF 4. Thus, Appellant’s principal brief was due on or before September 12, 2016. Appellant did not file a principal brief. Instead, Appellant filed a motion to dismiss the appeal pursuant to Fed. R. Bankr. P. 8023 alleging that “changed circumstances in the underlying and related bankruptcy matters have rendered the appeal moot.” ECF 6. In its motion, Appellant states that “Appellee has incurred no allowable costs in relation to this appeal.” *Id.*

Appellant properly served the other parties to this action on September 20, 2016. *See* Certificate of Service, ECF 6. Neither the Appellee/Debtor nor the U.S. Trustee filed an opposition to Appellant’s motion, and the time for opposition has lapsed. *See* Fed. R. Bankr. P. 8013(a)–(b).

Under Fed. R. Bankr. P. 8023, “[a]n appeal may be dismissed on the appellant’s motion on terms agreed to by the parties or fixed by the district court or BAP.” Because Appellant states that Appellee has incurred no allowable costs in relation to this appeal, the Court need not determine the terms of dismissal. Moreover, because neither the Appellee/Debtor nor the U.S. Trustee has opposed Appellant’s motion, the Court finds no reason to deny Appellant its requested relief.

